



General Assembly

January Session, 2011

Raised Bill No. 1114

LCO No. 4090

* ____SB01114APP__050511____ *

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT REVISING THE DEFINITION OF TIDAL WETLANDS AND THE
HIGH TIDE LINE.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 22a-29 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 The following words and phrases, as used in sections 22a-28 to 22a-
4 35, inclusive, shall have the following meanings:

5 (1) "Commissioner" means the Commissioner of Environmental
6 Protection;

7 (2) "Wetland" means those areas which border on or lie beneath
8 tidal waters, such as, but not limited to, banks, bogs, salt marsh,
9 swamps, meadows, flats, or other low lands subject to tidal action,
10 including those areas now or formerly connected to tidal waters, and
11 [whose surface is at or below an elevation of one foot above local
12 extreme high water; and] upon which may grow or be capable of
13 growing some, but not necessarily all, of the following: Salt meadow
14 grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass
15 (*Juncus gerardi*), saltmarsh grass (*Spartina alterniflora*), saltworts

16 (*Salicornia Europaea*, and *Salicornia bigelovii*), sea lavender
 17 (*Limonium carolinianum*), saltmarsh bulrushes (*Scirpus robustus* and
 18 *Scirpus paludosus* var. *atlanticus*), sand spurrey (*Spergularia marina*),
 19 switch grass (*Panicum virgatum*), tall cordgrass (*Spartina pectinata*),
 20 high-tide bush (*Iva frutescens* var. *oraria*), cattails (*Typha angustifolia*,
 21 and *Typha latifolia*), spike rush (*Eleocharis rostellata*), chairmaker's
 22 rush (*Scirpus americana*), bent grass (*Agrostis palustris*), and sweet
 23 grass (*Hierochloe odorata*), royal fern (*Osmunda regalis*), interrupted
 24 fern (*Osmunda claytoniana*), cinnamon fern (*Osmunda cinnamomea*),
 25 sensitive fern (*Onoclea sensibilis*), marsh fern (*Dryopteris thelypteris*),
 26 bur-reed family (*Sparganium eurycarpum*, *Sparganium androcladum*,
 27 *Sparganium americanum*, *Sparganium chlorocarpum*, *Sparganium*
 28 *angustifolium*, *Sparganium fluctuans*, *Sparganium minimum*), horned
 29 pondweed (*Zannichellia palustris*), water-plantain (*Alisma triviale*),
 30 arrowhead (*Sagittaria subulata*, *Sagittaria graminea*, *Sagittaria eatoni*,
 31 *Sagittaria engelmanniana*), wild rice (*Zizania aquatica*), tuckahoe
 32 (*Peltandra virginica*), water-arum (*Calla palustris*), skunk cabbage
 33 (*Symplocarpus foetidus*), sweet flag (*Acorus calamus*), pickerelweed
 34 (*Pontederia cordata*), water stargrass (*Heteranthera dubia*), soft rush
 35 (*Juncus effusus*), false hellebore (*Veratrum viride*), slender blue flag
 36 (*Iris prismatica pursh*), blue flag (*Iris versicolor*), yellow iris (*Iris*
 37 *pseudacorus*), lizard's tail (*Saururus cernuus*), speckled alder (*Alnus*
 38 *rugosa*), common alder (*Alnus serrulata*), arrow-leaved tearthumb
 39 (*Polygonum sagittatum*), halberd-leaved tearthumb (*Polygonum*
 40 *arifolium*), spatter-dock (*Nuphar variegatum nuphar advena*), marsh
 41 marigold (*Caltha palustris*), swamp rose (*Rosa palustris*), poison ivy
 42 (*Rhus radicans*), poison sumac (*Rhus vernix*), red maple (*Acer*
 43 *rubrum*), jewelweed (*Impatiens capensis*), marshmallow (*Hibiscus*
 44 *palustris*), loosestrife (*Lythrum alatum*, *lythrum salicaria*), red osier
 45 (*Cornus stolonifera*), red willow (*Cornus amomum*), silky dogwood
 46 (*Cornus obliqua*), sweet pepper-bush (*Clethra alnifolia*), swamp
 47 honeysuckle (*Rhododendron viscosum*), high-bush blueberry
 48 (*Vaccinium corymbosum*), cranberry (*Vaccinium macrocarpon*), sea
 49 lavender (*Limonium nashii*), climbing hemp-weed (*Mikania scandens*),
 50 joe pye weed (*Eupatorium purpureum*), joe pye weed (*Eupatorium*

51 maculatum), thoroughwort (*Eupatorium perfoliatum*);

52 (3) "Regulated activity" means any of the following: Draining,
 53 dredging, excavation, or removal of soil, mud, sand, gravel, aggregate
 54 of any kind or rubbish from any wetland or the dumping, filling or
 55 depositing thereon of any soil, stones, sand, gravel, mud, aggregate of
 56 any kind, rubbish or similar material, either directly or otherwise, and
 57 the erection of structures, driving of pilings, or placing of obstructions,
 58 whether or not changing the tidal ebb and flow. Notwithstanding the
 59 foregoing, "regulated activity" shall not include activities conducted
 60 by, or under the authority of, the Department of Environmental
 61 Protection for the purposes of mosquito control, conservation activities
 62 of the state Department of Environmental Protection, the construction
 63 or maintenance of aids to navigation which are authorized by
 64 governmental authority and the emergency decrees of any duly
 65 appointed health officer of a municipality acting to protect the public
 66 health; and

67 (4) "Person" means any corporation, limited liability company,
 68 association or partnership, one or more individuals, and any unit of
 69 government or agency thereof.

70 Sec. 2. Subsection (a) of section 22a-30 of the general statutes is
 71 repealed and the following is substituted in lieu thereof (*Effective*
 72 *October 1, 2011*):

73 (a) The commissioner or his authorized representative shall have the
 74 right to enter upon any public or private property at reasonable times
 75 to carry out the provisions of sections 22a-28 to 22a-35, inclusive. The
 76 commissioner may make an inventory of all tidal wetlands within the
 77 state. The boundaries of such wetlands shall be shown on suitable
 78 reproductions or aerial photographs to a scale of one inch equals two
 79 hundred feet with such accuracy that they will represent a class D
 80 survey. [Such lines shall generally define the areas that are at or below
 81 an elevation of one foot above local extreme high water.] Such maps
 82 shall be prepared to cover entire subdivisions of the state as

83 determined by the commissioner. Upon completion of the tidal
 84 wetlands boundary maps for each subdivision, the commissioner shall
 85 hold a public hearing. The commissioner shall give notice of such
 86 hearing to each owner of record of all lands designated as such
 87 wetland as shown on such maps by certified mail, return receipt
 88 requested, not less than thirty days prior to the date set for such
 89 hearing. The commissioner shall also cause notice of such hearing to be
 90 published at least once not more than thirty days and not fewer than
 91 ten days before the date set for such hearing in a newspaper or
 92 newspapers having a general circulation in the town or towns where
 93 such wetlands are located. After considering the testimony given at
 94 such hearing and any other facts which may be deemed pertinent and
 95 after considering the rights of affected property owners and the
 96 purposes of sections 22a-28 to 22a-35, inclusive, the commissioner shall
 97 establish by order the bounds of each of such wetlands. A copy of the
 98 order, together with a copy of the map depicting such boundary lines,
 99 shall be filed in the town clerk's office of all towns affected. The
 100 commissioner shall give notice of such order to each owner of record
 101 of all lands designated as such wetlands by mailing a copy of such
 102 order to such owner by certified mail, return receipt requested. The
 103 commissioner shall also cause a copy of such order to be published in a
 104 newspaper or newspapers having a general circulation in the town or
 105 towns where such wetlands are located. Any person aggrieved by such
 106 order may appeal therefrom in accordance with the provisions of
 107 section 4-183, except venue for such appeal shall be in the judicial
 108 district of New Britain.

109 Sec. 3. Subsection (c) of section 22a-359 of the general statutes is
 110 repealed and the following is substituted in lieu thereof (*Effective*
 111 *October 1, 2011*):

112 (c) As used in this section and sections 22a-360 to [22a-363] 22a-
 113 363b, inclusive, "high tide line" means [a line or mark left upon tide
 114 flats, beaches, or along shore objects that indicates the intersection of
 115 the land with the water's surface at the maximum height reached by a
 116 rising tide. The mark may be determined by (1) a line of oil or scum

117 along shore objects, (2) a more or less continuous deposit of fine shell
118 or debris on the foreshore or berm, (3) physical markings or
119 characteristics, vegetation lines, tidal gauge, or (4) by any other
120 suitable means delineating the general height reached by a rising tide.
121 The term includes spring high tides and other high tides that occur
122 with periodic frequency but does not include storm surges in which
123 there is a departure from the normal or predicted reach of the tide due
124 to the piling up of water against a coast by strong winds such as those
125 accompanying a hurricane or other intense storm] the elevation of the
126 Mean Higher High Water for the period between 1983 and 2001, as
127 contained in the 2001 tidal epoch approved by the National Oceanic
128 and Atmospheric Administration.

This act shall take effect as follows and shall amend the following sections:		
-------------------------------------------------------------------------------	--	--

Section 1	<i>October 1, 2011</i>	22a-29
Sec. 2	<i>October 1, 2011</i>	22a-30(a)
Sec. 3	<i>October 1, 2011</i>	22a-359(c)

ENV *Joint Favorable*

APP *Joint Favorable*